IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WP(C).No. 16752 of 2007(T)

PETITIONER:

R.SUPRABHA,
CHINJU BHAVAN, KATTAYIL, ODANAVATTOM P.O.,
KOTTARAKKARA, KOLLAM.

BY ADV. SRI.K.SUBASH CHANDRA BOSE

RESPONDENTS:

1. **THE DISTRICT SUPPLY OFFICER,**
   KOLLAM.

2. **THE TALUK SUPPLY OFFICER,**
   TALUK SUPPLY OFFICE,
   KOTTARAKKARA, KOLLAM.

3. **THE TAHSILDR,**
   KOTTARAKKARA TALUK OFFICE,
   KOTTARAKKARA, KOLLAM.

4. **SMT.VALSALAKUMARY,**
   MAYA BHAVAN (CHARUVILA PUTHEN VEEDU),
   KUTHIRACHIRA PAKIDIYIL,
   PUNALUR P.O., KOLLAM.

BY ADV. SRI.ALEXANDER GEORGE, R4
GOVERNMENT PLEADER, SRI.BENJAMIN PAUL, R1 TO R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE DEATH REPORT DATED 12.12.2006 IN CRIME NO.771/06.

EXT.P2: TRUE COPY OF THE PAPER REPORT INFORMING THE OBSEQUIES OF THE PETITIONER'S HUSBAND APPEARED IN KERALA KAUMUDI DAILY DATED 15.12.2006.

EXT.P3: TRUE COPY OF THE ELECTORAL IDENTITY CARD OF PETITIONER'S LATE HUSBAND SRI.SIDDHARTHAN DATED 20.10.1997

EXT.P4: TRUE COPY OF THE ELECTORAL IDENTITY CARD OF PETITIONER DATED 20.10.1997.

EXT.P5: TRUE COPY OF THE IDENTITY CARD OF PETITIONER'S LATE HUSBAND SRI.SIDDHARTHAN ISSUED BY KERALA RATION DEALERS WELFARE FUND DATED 17.07.2000.

EXT.P6: TRUE COPY OF THE FIRST PAGE OF MONTHLY SUBSCRIPTION PASS BOOK OF PETITIONER'S LATE HUSBAND SRI.SIDDHARTHAN.

EXT.P7: TRUE COPY OF THE ORDRE OF 3RD RESPONDENT DATED 13.12.2007.

EXT.P8: TRUE COPY OF THE EXTRACT OF the REGISTER SHOWIN THE PETITIONER WORKING AS SALESWOMAN IN AUTHORISED RETAIL DEPOT.

EXT.P9: TRUE COPY OF THE APPLICATION SUBMITTED BEFORE THE 3RD RESPONDENT DATED 30.12.2006.

EXT.P10: TRUE COPY OF THE GAZETTE PUBLICATION.

EXT.P11: TRUE COPY OF THE CERTIFICATE ISSUED FROM THE RESPECTIVE BRANCHES OF SNDP.

EXT.P12: TRUE COPY OF THE MARRIAGE INVITATION LETTER OF PETITIONER and DECEASED SIDHARTHAN DATED 5.1.1984.

EXT.P13: TRUE COPY OF THE CERTIFICATE ISSUED BY THE VELIYAM STREE SUBRAMANYA SWAMY TEMPLE TRUST DATED 23.03.2007.

EXT.P14: TRUE COPY OF THE MARRIAGE CERTIFICATE ISSUED BY THE VELIYAM GRAMA PANCHAYAT.

EXT.P15: TRUE COPY OF THE RATION CARD OF THE PETITIONE AND DECEASED SIDHARTHAN WITH THEIR CHILDREN.

EXT.P16: TRUE COPY OF THE PLAINT FILED BEFORE THE VACATION COURT, KOLLAM.

EXT.P17: TRUE COPY OF THE CERTIFICATE ISSUED BY THE 3RD RESPONDENT DATED 07.05.2007.

EXT.P18: TRUE COPY OF THE REPRESENTATION AND APPLICATION SUBMITTED BY PETITIONER ON 17.05.2007 TO THE 1ST RESPONDENT.

EXHIBITS OF 4TH RESPONDENT:

EXT.R4-A: TRUE COPY OF THE MARRIAGE CERTIFICATE ISSUED BY MUTHARAMMEN TEMPLE TRUST DATED 15.08.2007.

EXT.R4-B: TRUE COPY OF THE JUDGMENT DATED 10.04.2007 IN W.P.(C) NO.12249 OF 2007.

EXT.R4-C: TRUE COPY OF THE APPLICATION FILED BY THIS PETITIONER BEFORE THE 4TH RESPONDENT.

EXT.R4-D: TRUE COPY OF THE O.S.NO.465/07 FILED BY THIS RESPONDENT BEFORE THE FAMILY COURT KOTTARAKARA.

// T R U E C O P Y //

ANTONY DOMINIC, J.
==========
W.P.(C) NO. 16752 OF 2007 T
==========

Dated this the 2nd day of November, 2007

J U D G M E N T

This writ petition seeks a direction to the 3rd respondent to issue heirship certificate applied for by the petitioner and to appoint her as permanent Authorised Retail Distributor of ARD No.92 of Kottarakkara Taluk.

2. At the time when this writ petition was taken up for hearing, counsel made submission that pending adjudication of the issues raised in this writ petition, the petitioner may be directed to be appointed on a provisional basis in the place of her deceased husband.

3. Facts of the case are that the petitioner's husband was an authorised retail distributor of ARD No.92 of Kottarakkara Taluk and on his death petitioner applied for appointment in his place and as she was not successful, this writ petition has been filed.

4. The 4th respondent has filed a counter affidavit. She claims that she is the legally wedded wife of the deceased. In fact, she had filed writ petition in this court as WP(C) No.12249/07 seeking declaration of her status as the legally

wedded wife of the deceased. That writ petition, to which the petitioner is also a party, was dismissed by Ext.R4(B) judgment, holding that neither this court nor the Tahsildar will be in a position to decide the dispute. It was held that the matter requires to be decided by a civil court having jurisdiction to issue a declaration on the marital status of the parties. In that writ petition, 4th respondent claimed that she wanted to obtain a heirship certificate from the Tahsildar for production before the Taluk Supply Officer for getting appointment as the ARD in the place of the deceased. She would point out that in pursuance to the said judgment, she has filed OS 465/07 seeking a declaration of her marital status and that the said suit is pending before the Family Court, Kottarakkara. Therefore, she is also asserting her right to be appointed as ARD in the place of her deceased husband.

5. Therefore, from the facts, it is evident that the petitioner on the one side and the 4th respondent on the other, are raising rival claims to be the legally wedded wife of the deceased and that they are entitled to be appointed as ARD in

the place of her husband in terms of Rule 45(2) of the Kerala Rationing Order, 1966.

In view of the controversy that is raised by both parties, which require adjudication by a competent civil court, any direction sought, can be issued on the culmination of the proceedings in OS 465/07. Hence, until the suit is finally decided, I do not think it is proper to direct appointment of the petitioner, either on regular or on provisional basis, which will be to the prejudice of the other party. Writ petition fails and is dismissed.

ANTONY DOMINIC, JUDGE.

Rp